

E-Filed 1/7/2011

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

AGNES BLACKWELL,

Plaintiff,

v.

WELLS FARGO HOME MORTGAGE, INC.,

Defendant.

Case Number 5:10-4917 JF (PSG)

ORDER¹ DENYING PLAINTIFF'S
PETITION FOR
RECONSIDERATION.

[Re: Docket No. 21]

Plaintiff Agnes Blackwell, proceeding *pro se*, seeks reconsideration of the Court's November 30, 2010 denial of her motion for preliminary injunction. Plaintiff filed an *ex parte* application for a temporary restraining order on October 19, 2010 to prevent Defendant Wells Fargo Home Mortgage, Inc. from foreclosing upon and selling her real property located at 1464 Kelly Court San Jose, California 95116. The application was denied on November 4, 2010 and Plaintiff was directed to serve Defendant with a copy of her Complaint, motion for preliminary injunction, and the November 4th Order. (Dkt. 10 at 4.) Although the docket does not indicate that Plaintiff served Defendant with her motion for preliminary injunction, Wells Fargo

¹ This disposition is not designated for publication in the official reports.


1 submitted a brief in opposition on November 24, 2010.

2 Plaintiff contends that her motion should not have been denied for failure to reply
3 because Defendant's opposition brief was untimely filed. While Plaintiff is correct in
4 highlighting that Defendant's brief was filed after the November 19, 2010 deadline given in the
5 November 30th Order, the motion for preliminary injunction was denied as moot. The Court's
6 determination was not dependent upon Plaintiff's failure to submit a reply brief. The facts set
7 forth by both parties clearly established that the property in question already had been sold.²
8 Accordingly, the motion for preliminary injunction was improper.

9 **ORDER**

10 The Court finds that the instant motion is suitable for determination without oral
11 argument pursuant to Civil L. R. 7-1(b). Good cause therefor appearing, IT IS HEREBY
12 ORDERED that the motion for reconsideration is DENIED.

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14 DATED: January 7, 2011

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16 JEREMY FOGEL
17 United States District Judge
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28 ² The Court specifically noted that even if it were to assume that the sale took place in
August as alleged by Plaintiff, the motion appears to be moot. (Dkt. 18 at 1-2.)

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7 A copy of this order has been sent to:

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9 Agnes Blackwell
10 P.O. Box 4418
11 Santa Clara, CA 95056
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